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COMMITTEE AGAINST TORTURE

Seventh session

SUMMARY RECORDS OF THE 88th to 103rd MEETINGS

Held at the Palais des Nations, Geneva,
from 11 to 21 November 1991

Corrigendum

The present document contains the corrections received from the participants and from the Secretariat to the English text of the summary records of the public meetings of the Committee against Torture at its seventh session (CAT/C/SR.88, 89, 90/Add.1, 97, 98, 99, 101, 102 and 103).

The Committee against Torture also held five closed meetings, the summary records of which (CAT/C/SR.88/Add.1, 90, 97/Add.1, 100 and 101/Add.1) were issued in restricted distribution. No corrections to the records of the closed meetings were received.

With the issuance of the present corrigendum, the summary records of the meetings held by the Committee against Torture at its seventh session are to be considered as final.

88th meeting

Paragraph 47

Line 8: For one: the task read one. The task

Lines 9 and 10 should read

Committee against Torture was simply to act on the basis of information contained in reports submitted to it or pursuant to article 20.

91st meeting

Paragraph 4, line 8

For country read United Kingdom

Paragraph 7, line 4

For had been enacted read since it had come into force

Paragraph 8

Line 3: for came read come

Line 7: for 1991, thus strengthening read 1991. These strengthen

Paragraph 10

Line 2: for late read the end of

Lines 4 and 5: for to be provided in all prisons read to which all prisons must aim

Paragraph 41, last sentence

For the existing text substitute

Since the report would remain confidential unless the United Kingdom authorities decided to publish it, he would not take part in the present discussion. However, he expressed the hope that the United Kingdom authorities would publish the report.

92nd meeting

Paragraph 3, line 1

For applied and developed read provided a defence which picked up the reference to lawful sanctions in

Paragraph 4, line 4

For English law concepts read United Kingdom arrangements

Paragraph 5, line 1

For they read there

Paragraph 9

Line 3: for No. 2 read (No. 2)

Line 4: for fee-paying parents of read parents of fee-paying

Paragraph 11, lines 8 and 9

Delete He also had the right to make exclusion orders (para. 22 of the report).

Paragraph 14

Line 5: before statement insert written

Line 10: for However, it was read It was

Line 11: after testimony insert which repeated a statement obtained by oppression

Paragraph 15, last two lines

The last sentence should read

If he decided not to do so, the matter fell to the military authorities to do so.

Paragraph 17

For the existing text substitute

17. Mr. MORRIS (United Kingdom), referring to paragraphs 25 and 26 of the report on the question of immigration, said that they had been intended to convey the United Kingdom's acceptance that separate obligations arose under the Convention relating to the Status of Refugees and the Convention against Torture and which were applicable in quite different ways. It followed that the United Kingdom was alive to its obligations under the Convention against Torture and would not risk putting itself in breach of the provision on return contained in article 3. Exceptional leave to remain in United Kingdom territory was available to ensure protection for all persons in humanitarian cases, for example, where it was considered unreasonable or impracticable to enforce departure.

Paragraph 18

Line 1: for Replying read Mr. CAFFAREY (United Kingdom) replying

Line 2: for he said read said

Line 6: before those recommendations insert some of

Line 9 should read

the great majority of recommendations of the two reports and proposed a far-reaching reform

Line 10: for Those reforms should read It was hoped that those reforms would

Paragraph 19

Line 7 should read

of self-inflicted deaths in prisons in England and Wales. In 1985, there had been 29 such deaths;

Lines 12 and 13: delete the last sentence

Paragraph 20, line 2

(a) For could read would

(b) After psychiatrist insert if necessary

Paragraph 22

Line 2: for serious disturbance read a serious disturbance which required outside assistance

Line 3: for were read would be

Paragraph 23

Line 1: for articles read paragraphs

Line 4: after care. insert In addition, all health care professionals - whether or not they came into contact with detained persons - must abide by the same ethical principles and professional supervision.

Lines 5, 6 and 7: the remainder of the sentence after questions, should read

drew attention to the fact that they must at all times observe the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Line 9: for did correspond to read adequately reflected

Paragraph 29

Line 3: for limited because read subject to judicial oversight because in most cases

Line 7: for and members of the armed forces read under separate statutory authority

Lines 8 and 9: delete dashes

Paragraph 30

Line 1: for Arrest read Detention

Line 7: for an initial period of read up to

Line 9: for an officer read a uniformed officer of at least Inspector rank

Line 12: after for insert up to

Line 15: for guide to the emergency powers read published Guide to the Emergency Powers

Paragraph 31, line 8

After immediately insert and, in addition, access to a medical officer had to be provided at a set time every day

Paragraph 32, lines 2 and 3

The second sentence should read

The Government did not have a closed mind on this point though it was not yet convinced that in the particular circumstances of Northern Ireland the introduction of such recordings would not jeopardize the interview procedure.

Paragraph 33

For the existing text substitute

33. The right of access to a solicitor and to have someone informed of the whereabouts of a person in police custody could in no case be delayed beyond 48 hours. Authorization of delay had to be by an officer of at least Superintendent rank and the reasons conveyed to the detainee in writing.

Paragraph 35, line 1

After certain insert probably main

Paragraph 36

Line 3: for followed read reviewed

Line 4 should read

Department. An independent Board of Visitors had unrestricted access to all detainees and could transmit any serious complaint directly to the Home Secretary.

Paragraph 41, line 4

After decide insert in all cases

Paragraph 44, last line

After taken insert as appropriate

Paragraph 45

Line 3 to the end of the paragraph should read

it was nevertheless a State where the rule of law prevailed. The authorities were not above the law but subjected comprehensively to thorough and open review. For all new powers there were accompanying safeguards. Compensation might be awarded to a victim of inhuman or degrading treatment even where no disciplinary proceedings took place or where, if they did, there was no findings of guilt. This was possible because of the different standards of proof which applied in disciplinary and civil proceedings. It was also significant that the independent Commission for police complaints in Northern Ireland could commence an investigation spontaneously on its own authority without having to wait for a specific complaint. Nor was it the case generally in the United Kingdom that disciplinary charges were laid against police officers only following the receipt of a complaint by a member of the public. On the contrary, the majority arose from within the management of the forces themselves.

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Paragraph 71 should not be numbered, consequently, paragraph 72 will be renumbered paragraph 71.

96th meeting

Paragraph 2, line 1

The name of the speaker should read Mr. BURNS

Paragraph 23

For the existing text substitute

23. Mr. WALKER (Australia) thanked the members of the Committee for the trouble they had taken to try to master the intricacies of the Australian legal system and to prepare such specific questions. He recognized that the Australian federal system might sometimes be difficult to understand for those unfamiliar with it.

Paragraph 24

For the existing text substitute

24. Responding to the Chairman's request for a brief description of the division of powers between State and Federal Governments as it related to Australia's acceptance of international obligations, he said that under the Constitution, the Federal Government could, after having subscribed to an international instrument, enact legislation at the federal level to implement its provisions. That federal legislation was then enforced by the courts and overrode inconsistent State and Territory laws. That procedure, which had been followed on some occasions, was however, not the preferred one, especially in the case of human rights instruments, as it involved a number of political and practical disadvantages. Ordinarily, the States and Territories enjoyed legislative autonomy; they therefore understandably did not favour the Federal Government adopting legislation in areas primarily within their jurisdiction. In practice, two different sets of laws might then be applicable and that would create confusion. The Federal Government therefore frequently took another approach, which was more time-consuming but equally effective. Following this approach, before acceding to the Convention against Torture, the Federal Government had consulted the authorities of the different States and self-governing Territories to ensure that their laws enabled Australia to comply with the Convention. Those laws did not all use the exact wording of the Convention, but their effect was to prevent torture. If there were gaps, the State concerned would amend its legislation accordingly. That procedure took time, and that was why the Federal Government was sometimes slow to become a party to international instruments, but it did make it possible to state, on behalf of all law enforcement authorities throughout Australian territory, that all jurisdictions fully implemented the provisions of the Convention.

Paragraph 25

Lines 3 and 4 should read

Australian Capital Territory, he pointed out that it did so only in relation to offences committed in other countries, and not on Australian territory.

Paragraph 26

At the end of the paragraph insert

This was his personal understanding of the situation. He would seek an official reply.

Paragraph 27, lines 5 to 9

For the existing text substitute

In taking such a decision, he was advised by a committee composed of Ministry of Justice, Immigration Ministry and Foreign Ministry officials and a representative of the Office of the United Nations High Commissioner for Refugees.

Paragraph 29

For the existing text substitute

29. Mr. WALKER (Australia), referring to the inquiry as to whether Australia claimed universal jurisdiction, said that the Crimes (Torture) Act 1988 specifically applied to persons in Australia who had committed an offence against that Act outside Australian territory. Generally, however, the Australian Parliament did not purport to give extra-territorial effect to its laws but when it did, that would be clear on the face of the law.

Paragraph 32

The second sentence should read

In response to the question about electro-shock therapy (as distinct from the use of mild electric shocks in aversion therapy) he said he understood this was no longer used; he believed that he would be able to confirm that to the Committee at a later stage.

Line 9: after interest, insert but subject to judicial review,

Paragraph 34, lines 2 and 3

For migrant medicine read medical programmes for immigrants to Australia

Paragraph 37

For the existing text substitute

37. Mr. WALKER (Australia), replying to a question by Mr. Perlas, said that he did not have statistics on cases of torture as such; indeed the Convention did not seem to have been invoked in Australia. However, he provided statistics on complaints against the police in 1989-1990 (some but by no means all such complaints would relate to mistreatment of persons in custody). The fact that in a significant number of cases the complaint had been upheld indicated that they were addressed seriously.

Paragraph 38, line 2

For police custody read the time a person could be held in police custody without a Court Order

Paragraph 39

For the existing text substitute

39. Mr. WALKER (Australia) informed Mr. Perlas that the offence of torture was not specifically defined in most relevant Australian laws and that the authors of the report (CAT/C/9/Add.8) had not sought to be exhaustive but to give illustrations of the Australian system.

Paragraph 42, line 1

For Mr. BROOME (Australia) read He

Paragraph 45, line 7

For He did not see read After exhaustive consultations the Australian authorities did not believe there was

Paragraph 46

For the existing text substitute

46. As for the inquiry about a commission of inquiry into conditions of detention of Australian aborigines, this was presumably a reference to the Royal Commission on Aboriginal Deaths in Custody, which had taken a very broad view of its mandate. The Federal and State Governments had started to take measures to apply the Commission's recommendations, some of which referred to conditions of detention. It should be noted that the reforms being implemented were likely to be applied to all detainees and not only to aboriginal detainees.

Paragraph 47

Lines 2 and 4: for legislation read laws

Penultimate line: for legislation of each State was read laws of each State were

Paragraph 48

Penultimate line: for Offences which constituted read Criminal offences which also amounted to

Last line: for legislation read criminal law

Paragraph 49

Line 5: for When read If

Line 7: for settle read conciliate

Lines 8 and 9 should read

between the respondent and the complainant. If

Line 10: after justified insert criminal

Line 12: for legislation read law

Paragraph 50

Line 1: for referring to read responding to the question on

Line 7: for specal read special

Line 8: delete and the rights of the child

line 11: for legislation read administration of laws

Paragraph 51

Lines 2 to 5 should read

article 4, paragraph 2, of the Convention, said that the Australian criminal law required that a person be made to answer only to the specific charges set out in the charge bringing the person before the criminal court. Nevertheless, the system was discretionary so that prosecuting authorities were enabled to frame the charge by reference to the offences established by law and in the light of all the circumstances of the alleged offence. The judge can take these and other relevant factors such as the seriousness of the offence and the convicted criminal's previous record into account in deciding on the penalty. The system also authorized the

Paragraph 52

Line 3: for even read also

Lines 4 to the end of the paragraph should read

embodied in some legislation. The Crimes Act 1900 was not anachronistic as it was amended regularly and is continuously under review by Justice Ministry officials and Ministers.

Paragraph 56, line 2

For did read might

Paragraph 58

Line 1 should read

58. He agreed that some of the laws quoted in paragraph 103 of the report were drafted in a peculiar manner; the content

Line 3: for occasion to complain about not read grounds to complain of

Paragraph 60, line 3

(a) Before law insert criminal

(b) After action insert for damages

Paragraph 61, line 2

After law insert of the Australian Capital Territory

Paragraph 70, line 2

(a) For indicated read welcomed the advice

(b) For had made read was considering making